

1 Ahilan T. Arulanantham (SBN 237841)
2 arulanantham@law.ucla.edu
3 CENTER FOR IMMIGRATION LAW AND
4 POLICY, UCLA SCHOOL OF LAW
5 385 Charles E. Young Dr. East
6 Los Angeles, CA 90095
7 Telephone: (310) 825-1029

8 Emilou MacLean (SBN 319071)
9 emaclean@aclunc.org
10 Michelle (Minju) Y. Cho (SBN 321939)
11 mcho@aclunc.org
12 Amanda Young (SBN 359753)
13 ayoung@aclunc.org
14 ACLU FOUNDATION
15 OF NORTHERN CALIFORNIA
16 39 Drumm Street
17 San Francisco, CA 94111-4805
18 Telephone: (415) 621-2493
19 Facsimile: (415) 863-7832

20 Attorneys for Plaintiffs
21 *[Additional Counsel Listed on Next Page]*

22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

1 NATIONAL TPS ALLIANCE, MARIELA
2 GONZÁLEZ, FREDDY JOSE ARAPE RIVAS,
3 M.H., CECILIA DANIELA GONZÁLEZ
4 HERRERA, ALBA CECILIA PURICA
5 HERNÁNDEZ, E.R., HENDRINA VIVAS
6 CASTILLO, A.C.A., SHERIKA BLANC, VILES
7 DORSAINVIL, and G.S.,

8 Plaintiffs,

9 vs.

10 KRISTI NOEM, in her official capacity as
11 Secretary of Homeland Security, UNITED
12 STATES DEPARTMENT OF HOMELAND
13 SECURITY, and UNITED STATES OF
14 AMERICA,

15 Defendants.

16 Case No. 3:25-cv-01766-EMC

17
18
19
20
21
22
23
24
25
26
27
28

PLAINTIFFS' REPLY IN SUPPORT OF
REQUEST FOR EMERGENCY RELIEF IN
LIGHT OF DEFENDANTS' NON-
COMPLIANCE WITH DISCOVERY
ORDER

1 Additional Counsel for Plaintiffs

2 Jessica Karp Bansal (SBN 277347)

jessica@ndlön.org

3 Lauren Michel Wilfong (*Pro Hac Vice*)

lwilfong@ndlön.org

4 NATIONAL DAY LABORER

ORGANIZING NETWORK

5 1030 S. Arroyo Parkway, Suite 106

Pasadena, CA 91105

6 Telephone: (626) 214-5689

7 Eva L. Bitran (SBN 302081)

ebitran@aclusocal.org

8 Diana Sanchez (SBN 338871)

dianasanchez@aclusocal.org

9 ACLU FOUNDATION

OF SOUTHERN CALIFORNIA

10 1313 West 8th Street

Los Angeles, CA 90017

11 Telephone: (213) 977-5236

12 Erik Crew (*Pro Hac Vice*)

ecrew@haitianbridge.org

13 HAITIAN BRIDGE ALLIANCE

4560 Alvarado Canyon Road, 1H

14 San Diego, CA 92120

Telephone: (949) 603-7411

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 Plaintiffs still have no assurance about whether or when Defendants will comply with their
 2 discovery obligations. Quite the opposite. Defendants have not demonstrated reasonable diligence or
 3 transparency. They initially assured Plaintiffs that their May 19th production was complete. After
 4 repeated inquiries, Defendants acknowledged a deficiency on May 22nd, but represented it was
 5 limited to no more than 159 documents. Yesterday, Defendants disclosed for the first time purported
 6 “serious systematic issues” that apparently cut the volume of data collected for certain custodians
 7 roughly in half. Dkt. 153-1 ¶¶ 3–5. As of this filing, Defendants have not advised as to the number of
 8 documents impacted or the estimated date when these materials will be produced.

9 Equally problematic, yesterday’s declaration concerns a narrow subset of custodians and
 10 raises more questions than it answers. Defendants appear to admit (via silence) that they never
 11 inquired whether custodians ever used, or gathered documents from, basic repositories essential to a
 12 meaningful custodial collection, including: (a) paper documents; (b) laptop/desktop hard drives,
 13 (c) personal email accounts, and (d) mobile devices (including messaging applications).¹ No
 14 explanation is forthcoming as to why Secretary Noem, Corey Lewandowski, and other important
 15 custodians with broad responsibilities, who directly participated in the challenged decisions, are not
 16 custodians for a single document or, at most, a handful of documents. *See* Ex. 1 (updated list of
 17 documents produced or logged for each custodian, reflecting today’s supplemental production);
 18 Dkt. 132-1 (describing roles and responsibilities of custodians). Nor have Defendants explained how
 19 documents can “hit” on the search strings approved by the Court for the narrow time period at issue,
 20 yet not be responsive. For instance, out of the 159 documents identified as overlooked last week,
 21 Defendants ultimately produced and logged just 54—roughly 34%.

22 To avoid further delays, for each custodian, Defendants should be directed to search for and
 23 produce all non-privileged “hits” found among paper files, hard drives, emails, and mobile devices,
 24 including messaging apps—whether official or personal, so long as used for official business
 25 concerning the challenged decisions—on an expedited timeline. Defendants also should be required

26 ¹ Defendants apparently collected from OneDrive, which *could* account for files on laptops/desktops,
 27 but only if users synched their laptops/desktops with OneDrive. Defendants have not advised
 28 whether these custodians used OneDrive in that fashion. Similarly, Defendants’ collection from
 Teams matters only if these custodians used Teams while logged into official systems. It would not
 capture messages sent via other applications (such as Signal) on personal or work devices.

1 to submit a declaration under penalty of perjury that confirms their compliance with the same, as
2 well as written responses to RFP Nos. 1, 2, and 6 signed by counsel or a party. Finally, Defendants
3 should promptly advise as to the number of “hits” still to be reviewed and produced, including so the
4 Court and Plaintiffs can evaluate how best to proceed in light of the ongoing discovery deficiencies.

5 Date: May 28, 2025

Respectfully submitted,

6
7
8
9
ACLU FOUNDATION
OF NORTHERN CALIFORNIA

10
11
12
13
14
15
16
17
18
19
20
1/s/ *Emilou MacLean*
Emilou MacLean
Michelle (Minju) Y. Cho
Amanda Young

21
22
23
24
25
26
27
28
Ahilan T. Arulanantham
CENTER FOR IMMIGRATION LAW AND
POLICY, UCLA SCHOOL OF LAW

21
22
23
24
25
26
27
28
Eva L. Bitran
Diana Sanchez
ACLU FOUNDATION
OF SOUTHERN CALIFORNIA

21
22
23
24
25
26
27
28
Jessica Karp Bansal
Lauren Michel Wilfong (*Pro Hac Vice*)
NATIONAL DAY LABORER
ORGANIZING NETWORK

21
22
23
24
25
26
27
28
Erik Crew (*Pro Hac Vice*)
HAITIAN BRIDGE ALLIANCE

21
22
23
24
25
26
27
28
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on May 28, 2025, I caused the foregoing to be electronically filed with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to all counsel of record.

ACLU FOUNDATION OF NORTHERN CALIFORNIA

/s/ *Emilou MacLean*
Emilou MacLean